

*Farm tools.* An instrument worked or used by hand, e.g., hoes, rakes, shovels, axes, hammers, and saws.

*Generally infested area.* Any part of a regulated area not designated as a suppressive area in accordance with § 301.85-2.

*Golden nematode.* The nematode known as the golden nematode (*Globodera rostochiensis*), in any stage of development.

*Infestation.* The presence of the golden nematode or the existence of circumstances that make it reasonable to believe that the golden nematode is present.

*Inspector.* Any employee of the Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator to enforce the provisions of the Quarantine and regulations in this subpart.

*Interstate.* From any State into or through any other State.

*Limited permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of noncertifiable regulated articles to a specified destination for limited handling, utilization or processing or for treatment.

*Mechanized cultivating equipment; and mechanized harvesting equipment.* Mechanized equipment used for soil tillage, including tillage attachments for farm tractors, e.g., tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes, e.g., combines, potato conveyors, and harvesters and hay balers.

*Mechanized soil-moving equipment.* Equipment used for moving or transporting soil, e.g., draglines, bulldozers, dump trucks, road scrapers, etc.

*Moved (movement, move).* Shipped, deposited for transmission in the mail, otherwise offered for shipment, received for transportation, carried, or otherwise transported, or moved, or allowed to be moved, by mail or otherwise. "Movement" and "move" shall be construed in accordance with this definition.

*Person.* Any individual, corporation, company, society, or association, or

other organized group of any of the foregoing.

*Plant Protection and Quarantine Programs.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Protection Act and related legislation, quarantines, and regulations.

*Regulated area.* Any quarantined State, or any portion thereof, listed as a regulated area in § 301.85-2a, or otherwise designated as a regulated area in accordance with § 301.85-2(b).

*Regulated article.* Any articles as described in § 301.85(b).

*Restricted destination permit.* A document issued or authorized to be issued by an inspector to allow the interstate movement of regulated articles not certifiable under all applicable Federal domestic plant quarantines to a specified destination for other than scientific purposes.

*Scientific permit.* A document issued by the Deputy Administrator to allow the interstate movement to a specified destination of regulated articles for scientific purposes.

*Soil.* That part of the upper layer of earth in which plants can grow.

*State.* Any State, territory, or district of the United States, including Puerto Rico.

*Suppressive area.* That portion of a regulated area where eradication of infestation is undertaken as an objective, as designated under § 301.85-2(a).

[37 FR 24330, Nov. 16, 1972, as amended at 47 FR 12331, Mar. 23, 1982; 66 FR 21052, Apr. 27, 2001; 67 FR 8465, Feb. 25, 2002; 70 FR 33268, June 7, 2005]

**§ 301.85-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.**

(a) *Regulated areas and suppressive or generally infested areas.* The Deputy Administrator shall list as regulated areas, in a supplemental regulation designated as § 301.85-2a, each quarantined State; or each portion thereof in which golden nematode has been found or in which there is reason to believe that golden nematode is present,

or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator, in the supplemental regulation, may divide any regulated area into a suppressive area or a generally infested area in accordance with the definitions thereof in §301.85-1. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the golden nematode.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list in §301.85-2a if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an authorized inspector and notice thereof shall be given to the owner or person in possession of the premises.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under paragraph (a) of this section of any area listed as a regu-

lated area and suppressive or generally infested area when he determines that such designation is no longer required under the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may, in a supplemental regulation designated as §301.85-2b, list regulated articles or movements of regulated articles which shall be exempt from the certification, permit, or other requirements of this subpart under such conditions as he or she may prescribe, if he or she finds that facts exist as to the pest risk involved in the movement of such regulated articles which make it safe to so relieve such requirements.

[37 FR 24330, Nov. 16, 1972, as amended at 70 FR 33268, June 7, 2005]

#### **§301.85-2a Regulated areas; suppressive and generally infested areas.**

The civil divisions and parts of civil divisions described below are designated as golden nematode regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below:

##### NEW YORK

###### (1) *Generally infested area:*

*Cayuga County.* (A) The Town of Montezuma;

(B) That portion of land within the Town of Mentz owned or operated by Martens Farm which lies in an area bounded as follows: Beginning at the intersection of Tow Path Road and Maiden Lane; then west along Tow Path Road to its intersection with the Town of Mentz boundary; then north along the Town of Mentz boundary to its intersection with Maiden Lane; then east along Maiden Lane to the point of beginning.

*Genesee County.* The towns of Elba and Byron.

*Livingston County.* The towns of Avon, Caledonia, Geneseo, Groveland, Leicester, Lima, Livonia, Mount Morris, West Sparta, and York.

*Nassau County.* The entire county.

*Orleans County.* The towns of Barre and Clarendon.

*Seneca County.* The town of Tyre.

*Steuben County.* (A) The towns of Prattsburg and Wheeler;

(B) That area known as "Arkport Muck" located in the town of Dansville and bounded